

PROOF

STATE OF IOWA

Senate Journal

WEDNESDAY, MARCH 3, 2004

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JOURNAL OF THE SENATE

FIFTY-SECOND CALENDAR DAY
THIRTY-FIRST SESSION DAY

Senate Chamber
Des Moines, Iowa, Wednesday, March 3, 2004

The Senate met in regular session at 8:31 a.m., President Lamberti presiding.

Prayer was offered by the Reverend David Ruhe, pastor of the Plymouth Congregational Church in Des Moines, Iowa. He was the guest of Senator Ward.

The Journal of Tuesday, March 2, 2004, was approved.

ADJOURNMENT

On motion of Senator Iverson, the Senate adjourned at 9:00 a.m. until 8:30 a.m., Thursday, March 4, 2004.

APPENDIX

CERTIFICATES OF RECOGNITION

The Secretary of the Senate issued the following certificates of recognition:

Juanita Formaro, Des Moines—For celebrating your 90th birthday on March 2, 2004. Senator Dotzler (3/2/04).

Gary Guge, Logan—For 40 years of service with the ISU Harrison County Extension Office. Senator Seymour (3/10/04).

REPORTS OF COMMITTEE MEETINGS

COMMERCE

Convened: March 2, 2004, 4:10 p.m.

Members Present: Behn, Chair; Wieck, Vice Chair; Warnstadt, Ranking Member; Beall, Bolkcom, Brunkhorst, Gronstal, Kettering, Lundby, McCoy, Putney, Redfern, Schuerer, Sievers, and Stewart.

Members Absent: None.

Committee Business: Passed [SF 2016](#) and approved SSBs 3018 (as amended), 3037 (as amended), 3069, 3107, and 3127.

Adjourned: 4:40 p.m.

NATURAL RESOURCES AND ENVIRONMENT

Convened: March 2, 2004, 9:25 a.m.

Members Present: Houser, Chair; Johnson, Vice Chair; Seng, Ranking Member; Black, Bolkcom, Brunkhorst, Dearden, Drake, Holveck, Kettering, Kibbie, Lundby, Miller, Redfern, and Ziemann.

Members Absent: None.

Committee Business: Approved SSBs 3115, 3117, and 3123 (as amended).

Recessed: 10:25 a.m.

Reconvened: March 3, 2004, 7:40 a.m.

Recessed: 7:45 a.m.

Reconvened: 1:05 p.m.

Adjourned: 2:00 p.m.

BUSINESS AND LABOR RELATIONS

Convened: March 3, 2004, 10:15 a.m.

Members Present: Schuerer, Chair; Lundby, Vice Chair; Dearden, Ranking Member; Courtney, Dotzler, Horn, Johnson, Kettering, Seymour, and Wieck.

Members Absent: McKibben (excused).

Committee Business: Discussion regarding [SF 79](#) and [SSB 3079](#).

Recessed: 10:25 a.m.

Reconvened: 4:25 p.m.

Adjourned: 4:30 p.m.

COMMERCE

Convened: March 3, 2004, 4:00 p.m.

Members Present: Behn, Chair; Wieck, Vice Chair; Warnstadt, Ranking Member; Beall, Bolkcom, Brunkhorst, Gronstal, Kettering, Lundby, McCoy, Putney, Redfern, Schuerer, Sievers, and Stewart.

Members Absent: None.

Committee Business: Passed [SF 2171](#) (as amended) and 2192 and approved [SSB 3035](#) (as amended).

Adjourned: 4:20 p.m.

EDUCATION

Convened: March 3, 2004, 10:15 a.m.

Members Present: Boettger, Chair; McKinley, Vice Chair; Connolly, Ranking Member; Angelo, Beall, Behn, Brunkhorst, Dvorsky, Holveck, Hosch, Kreiman, Quirnbach, Redfern, Rehberg, and Ward.

Members Absent: None.

Committee Business: Approved SSBs 3108, 3149, 3150, 3151, and 3152.

Adjourned: 11:50 a.m.

HUMAN RESOURCES

Convened: March 3, 2004, 2:10 p.m.

Members Present: Veenstra, Chair; Seymour, Vice Chair; Ragan, Ranking Member; Behn, Boettger, Holveck, Horn, Hosch, Kreiman, McKinley, Schuerer, and Tinsman.

Members Absent: Hatch (excused).

Committee Business: Passed [SF 414](#) (as amended) and approved SSBs 3030 (as amended), 3130, and 3155.

Adjourned: 3:50 p.m.

LOCAL GOVERNMENT

Convened: March 3, 2004, 11:55 a.m.

Members Present: Gaskill, Chair; Miller, Vice Chair; Quirnbach, Ranking Member; Angelo, Hosch, Houser, Kettering, Kreiman, Rehberg, Seymour, and Stewart.

Members Absent: Hatch and McCoy (both excused).

Committee Business: Approved SSBs 3043 (as amended) and 3135.

Adjourned: 12:15 p.m.

STATE GOVERNMENT

Convened: March 3, 2004, 11:55 a.m.

Members Present: Zieman, Chair; Sievers, Vice Chair; Kibbie, Ranking Member; Black, Connolly, Courtney, Dearden, Drake, Johnson, Ragan, Schuerer, Shull, Tinsman, Veenstra, and Ward.

Members Absent: None.

Committee Business: Passed SFs 358 (as amended) and 2169 and approved [SSB 3097](#).

Recessed: 12:20 p.m.

Reconvened: 12:35 p.m.

Adjourned: 12:50 p.m.

TRANSPORTATION

Convened: March 3, 2004, 2:05 p.m.

Members Present: Drake, Chair; Putney, Vice Chair; McCoy, Ranking Member; Beall, Dearden, Fraise, Houser, Johnson, Shull, Ward, Warnstadt, and Zieman.

Members Absent: Rehberg (excused).

Committee Business: Approved SSBs 1135, 3071, and 3121.

Adjourned: 2:20 p.m.

INTRODUCTION OF RESOLUTIONS

[Senate Concurrent Resolution 109](#), by Putney, a concurrent resolution to honor the Meskwaki tribe members who served as Code Talkers in North Africa during World War II and to request that Congress and the President of the United States honor all Code Talkers who served in the United States armed forces.

Read first time under Rule 28 and referred to committee on **Rules and Administration**.

[Senate Concurrent Resolution 110](#), by committee on Education, a concurrent resolution providing for the formation of a committee by the Legislative Council to conduct a review of the school finance formula.

Read first time under Rule 28 and **placed on calendar**.

[Senate Concurrent Resolution 111](#), by committee on Education, a concurrent resolution requesting the Legislative Council to establish an interim study committee to examine the costs and benefits of Iowa joining the Midwestern Higher Education Compact.

Read first time under Rule 28 and **placed on calendar**.

INTRODUCTION OF BILLS

[Senate File 2229](#), by committee on Commerce, a bill for an act relating to the establishment of a prescription drug assistance program by the commissioner of insurance, and providing for a contingent appropriation.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2230](#), by committee on Commerce, a bill for an act relating to immunity from third-party liability for claims resulting from contaminated property.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2231](#), by committee on Commerce, a bill for an act relating to fees charged for delayed redemption of electronic gift cards.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2232](#), by committee on Judiciary, a bill for an act relating to the establishment of an Iowa spinal cord injury research program and including the levying of a surcharge on certain motor vehicle violations.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2233](#), by committee on Judiciary, a bill for an act eliminating a provision allowing a criminal offender to make a donation in lieu of performing community service.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2234](#), by committee on Judiciary, a bill for an act relating to child custody and visitation provisions.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2235](#), by committee on Judiciary, a bill for an act establishing a uniform mediation Act.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2236](#), by committee on Business and Labor Relations, a bill for an act relating to awards of noneconomic damages against health care providers.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2237](#), by committee on Education, a bill for an act relating to the minimum amount of instructional time accredited schools are required to provide.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2238](#), by committee on State Government, a bill for an act relating to the deposit and use of electronic transaction fees and providing an immediate effective date.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2239](#), by committee on State Government, a bill for an act relating to certain protections for members and families of members of the Iowa national guard or United States reserve forces during military service.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2240](#), by committee on Commerce, a bill for an act relating to temporary rate authority and rules of the Iowa utilities board regarding rate regulation proceedings.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2241](#), by committee on Local Government, a bill for an act providing for the administration of fairs, providing for the allocation of moneys, and providing for an effective date.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2242](#), by committee on Judiciary, a bill for an act relating to various issues under the purview of the department of corrections including the creation of an inmate labor fund.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2243](#), by committee on Judiciary, a bill for an act relating to the transfer and apportionment of district associate judges and to the qualifications of magistrates, and providing for a study.

Read first time under Rule 28 and **placed on calendar**.

[Senate File 2244](#), by committee on Commerce, a bill for an act relating to municipal utilities that provide telecommunications services, including the examination and confidentiality of certain accounting records.

Read first time under Rule 28 and **placed on calendar**.

STUDY BILLS RECEIVED

SSB 3153 **Judiciary**

Creating medical parole for certain persons committed to the custody of the department of corrections.

SSB 3154 **Judiciary**

Relating to sentences that restrict the maximum accumulation of earned time credits to fifteen percent of the total sentence of confinement.

SSB 3155 **Human Resources**

Addressing redesign of the system for services and other support provided for persons with mental illness, mental retardation or other developmental disabilities, or brain injury.

SSB 3156 **Judiciary**

Relating to and providing penalties for specified liquor control violations involving a retail liquor control license, wine permit, or beer permit.

SSB 3157 **Commerce**

Relating to exempting certain customers from participation in energy efficiency plan requirements of electric utilities.

SSB 3158 **Judiciary**

Providing penalties for specified liquor control violations involving a retail liquor control license, wine permit, or beer permit.

SSB 3159 **State Government**

Concerning charter agencies and agencies designated as charter agencies, making appropriations, and providing an effective date.

SUBCOMMITTEE ASSIGNMENTS

[Senate Concurrent Resolution 108](#)

RULES AND ADMINISTRATION: Iverson, Chair; Gronstal and Lamberti

[Senate Concurrent Resolution 109](#)

RULES AND ADMINISTRATION: Iverson, Chair; Gronstal and Lamberti

[Senate Resolution 124](#)

RULES AND ADMINISTRATION: Iverson, Chair; Gronstal and Lamberti

[Senate Resolution 125](#)

RULES AND ADMINISTRATION: Iverson, Chair; Gronstal and Lamberti

[Senate File 2218](#)

TRANSPORTATION: Drake, Chair; Dearden and Houser

[Senate File 2221](#)

STATE GOVERNMENT: Johnson, Chair; Black and Shull

[Senate File 2223](#)

WAYS AND MEANS: McKinley, Chair; Bolkcom and Miller

[Senate File 2227](#)

HUMAN RESOURCES: Schuerer, Chair; Kreiman and Veenstra

[Senate File 2228](#)

WAYS AND MEANS: Shull, Chair; McCoy and McKinley

[SSB 3153](#)

JUDICIARY: Miller, Chair; Boettger and Fraise

[SSB 3154](#)

JUDICIARY: Redfern, Chair; Kreiman and Tinsman

[SSB 3155](#)

HUMAN RESOURCES: Veenstra, Chair; Hatch and Tinsman

[SSB 3156](#)

JUDICIARY: Kettering, Chair; McCoy and Miller

[SSB 3157](#)

COMMERCE: Sievers, Chair; Bolkcom and Putney

[SSB 3158](#)

JUDICIARY: Kettering, Chair; McCoy and Miller

[SSB 3159](#)

STATE GOVERNMENT: Ward, Chair; Ragan and Tinsman

FINAL COMMITTEE REPORTS OF BILL ACTION

BUSINESS AND LABOR RELATIONS

Bill Title: *[SENATE FILE 2236 \(SSB 3114\)](#), a bill for an act relating to awards of noneconomic damages against health care providers.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 6: Schuerer, Johnson, Kettering, McKibben, Seymour, and Wieck. Nays, 4: Dearden, Courtney, Dotzler, and Horn. Present, 1: Lundby. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

*Pursuant to Senate Rule 40, the Legislative Services Agency reported nonsubstantive changes to the members of the Business and Labor Relations Committee on Senate File 2236, and they were attached to the committee report.

COMMERCE

Bill Title: [SENATE FILE 2229](#) (formerly [SF 2016](#)), a bill for an act relating to the establishment of a prescription drug assistance program by the commissioner of insurance, and providing for a contingent appropriation.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 14: Behn, Wieck, Warnstadt, Beall, Bolkcom, Brunkhorst, Gronstal, Kettering, Lundby, Putney, Redfern, Schuerer, Sievers, and Stewart. Nays, 1: McCoy. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

ALSO:

Bill Title: [SENATE FILE 2230 \(SSB 3107\)](#), a bill for an act relating to immunity from third-party liability for claims resulting from contaminated property.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 15: Behn, Wieck, Warnstadt, Beall, Bolkcom, Brunkhorst, Gronstal, Kettering, Lundby, McCoy, Putney, Redfern, Schuerer, Sievers, and Stewart. Nays, none. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

ALSO:

Bill Title: [SENATE FILE 2231 \(SSB 3069\)](#), a bill for an act relating to fees charged for delayed redemption of electronic gift cards.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 15: Behn, Wieck, Warnstadt, Beall, Bolkcom, Brunkhorst, Gronstal, Kettering, Lundby, McCoy, Putney, Redfern, Schuerer, Sievers, and Stewart. Nays, none. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

ALSO:

Bill Title: *[SENATE FILE 2240 \(SSB 3018\)](#), a bill for an act relating to temporary rate authority and rules of the Iowa utilities board regarding rate regulation proceedings.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 15: Behn, Wieck, Warnstadt, Beall, Bolkcom, Brunkhorst, Gronstal, Kettering, Lundby, McCoy, Putney, Redfern, Schuerer, Sievers, and Stewart. Nays, none. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

*Pursuant to Senate Rule 40, the Legislative Services Agency reported nonsubstantive changes to the members of the Commerce Committee on [Senate File 2240](#), and they were attached to the committee report.

ALSO:

Bill Title: *[SENATE FILE 2244 \(SSB 3037\)](#), a bill for an act relating to municipal utilities that provide telecommunications services, including the examination and confidentiality of certain accounting records.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 15: Behn, Wieck, Warnstadt, Beall, Bolkcom, Brunkhorst, Gronstal, Kettering, Lundby, McCoy, Putney, Redfern, Schuerer, Sievers, and Stewart. Nays, none. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

*Pursuant to Senate Rule 40, the Legislative Services Agency reported nonsubstantive changes to the members of the Commerce Committee on [Senate File 2244](#), and they were attached to the committee report.

EDUCATION

Bill Title: [SENATE CONCURRENT RESOLUTION 110 \(SSB 3152\)](#), a concurrent resolution providing for the formation of a committee by the Legislative Council to conduct a review of the school finance formula.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 14: Boettger, McKinley, Angelo, Beall, Behn, Brunkhorst, Dvorsky, Holveck, Hosch, Kreiman, Quirnbach, Redfern, Rehberg, and Ward. Nays, 1: Connolly. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

ALSO:

Bill Title: [SENATE CONCURRENT RESOLUTION 111 \(SSB 3150\)](#), a concurrent resolution requesting the Legislative Council to establish an interim study committee to examine the costs and benefits of Iowa joining the Midwestern Higher Education Compact.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 13: Boettger, McKinley, Angelo, Beall, Behn, Brunkhorst, Dvorsky, Hosch, Kreiman, Quirnbach, Redfern, Rehberg, and Ward. Nays, 1: Connolly. Absent, 1: Holveck.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

ALSO:

Bill Title: [SENATE FILE 2237 \(SSB 3108\)](#), a bill for an act relating to the minimum amount of instructional time accredited schools are required to provide.

Recommendation: WITHOUT RECOMMENDATION.

Final Vote: Ayes, 9: Boettger, McKinley, Angelo, Behn, Brunkhorst, Hosch, Redfern, Rehberg, and Ward. Nays, 6: Connolly, Beall, Dvorsky, Holveck, Kreiman, and Quirnbach. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

JUDICIARY

Bill Title: [SENATE FILE 2232](#) (formerly [SF 2196](#)), a bill for an act relating to the establishment of an Iowa spinal cord injury research program and including the levying of a surcharge on certain motor vehicle violations.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 8: Redfern, Kettering, Boettger, Gaskill, Holveck, Quirnbach, Tinsman, and Ward. Nays, 3: Horn, McCoy, and Miller. Present, 3: Kreiman, Fraise, and McKibben. Absent, 1: Brunkhorst.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

ALSO:

Bill Title: [SENATE FILE 2233 \(SSB 3105\)](#), a bill for an act eliminating a provision allowing a criminal offender to make a donation in lieu of performing community service.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 10: Redfern, Boettger, Brunkhorst, Gaskill, Holveck, McKibben, Miller, Quirnbach, Tinsman, and Ward. Nays, 5: Kettering, Kreiman, Fraise, Horn, and McCoy. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

ALSO:

Bill Title: [SENATE FILE 2234 \(SSB 3120\)](#), a bill for an act relating to child custody and visitation provisions.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 14: Redfern, Kettering, Kreiman, Boettger, Brunkhorst, Fraise, Gaskill, Horn, McCoy, McKibben, Miller, Quirnbach, Tinsman, and Ward. Nays, none. Present, 1: Holveck. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

ALSO:

Bill Title: [SENATE FILE 2235 \(SSB 3087\)](#), a bill for an act establishing a uniform mediation Act.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 15: Redfern, Kettering, Kreiman, Boettger, Brunkhorst, Fraise, Gaskill, Holveck, Horn, McCoy, McKibben, Miller, Quirnbach, Tinsman, and Ward. Nays, none. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

ALSO:

Bill Title: *[SENATE FILE 2242 \(SSB 3052\)](#), a bill for an act relating to various issues under the purview of the department of corrections including the creation of an inmate labor fund.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 15: Redfern, Kettering, Kreiman, Boettger, Brunkhorst, Fraise, Gaskill, Holveck, Horn, McCoy, McKibben, Miller, Quirnbach, Tinsman, and Ward. Nays, none. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

*Pursuant to Senate Rule 40, the Legislative Services Agency reported nonsubstantive changes to the members of the Judiciary Committee on [Senate File 2242](#), and they were attached to the committee report.

ALSO:

Bill Title: *[SENATE FILE 2243 \(SSB 3100\)](#), a bill for an act relating to the transfer and apportionment of district associate judges and to the qualifications of magistrates, and providing for a study.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 15: Redfern, Kettering, Kreiman, Boettger, Brunkhorst, Fraise, Gaskill, Holveck, Horn, McCoy, McKibben, Miller, Quirnbach, Tinsman, and Ward. Nays, none. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

*Pursuant to Senate Rule 40, the Legislative Services Agency reported nonsubstantive changes to the members of the Judiciary Committee on [Senate File 2243](#), and they were attached to the committee report.

LOCAL GOVERNMENT

Bill Title: [SENATE FILE 2241 \(SSB 3135\)](#), a bill for an act providing for the administration of fairs, providing for the allocation of moneys, and providing for an effective date.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 11: Gaskill, Miller, Quirnbach, Angelo, Hosch, Houser, Kettering, Kreiman, Rehberg, Seymour, and Stewart. Nays, none. Absent, 2: Hatch and McCoy.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

STATE GOVERNMENT

Bill Title: [SENATE FILE 2238 \(SSB 3097\)](#), a bill for an act relating to the deposit and use of electronic transaction fees and providing an immediate effective date.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 15: Zieman, Sievers, Kibbie, Black, Connolly, Courtney, Dearden, Drake, Johnson, Ragan, Schuerer, Shull, Tinsman, Veenstra, and Ward. Nays, none. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

ALSO:

Bill Title: [SENATE FILE 2239](#) (formerly [SF 2169](#)), a bill for an act relating to certain protections for members and families of members of the Iowa national guard or United States reserve forces during military service.

Recommendation: APPROVED COMMITTEE BILL.

Final Vote: Ayes, 15: Zieman, Sievers, Kibbie, Black, Connolly, Courtney, Dearden, Drake, Johnson, Ragan, Schuerer, Shull, Tinsman, Veenstra, and Ward. Nays, none. Absent, none.

Fiscal Note: NOT REQUIRED UNDER JOINT RULE 17.

AMENDMENT FILED

[S-5036](#) S.R. 123 Herman C. Quirnbach